

Department  
of the  
Treasury

Internal  
Revenue  
Service

Office of  
Chief Counsel

# Notice

CC-2009-019

June 23, 2009

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<b>Subject:</b>	Tax Court's Current Formats for the Standing Pretrial Order and the Standing Pretrial Notice	<b>Cancel Date:</b>	Upon incorporation into the CCDM
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In 2003, the United States Tax Court announced that it had adopted changes to the format of the Standing Pretrial Order used in regular tax cases and released the then new Standing Pretrial Order to the press. Since that time, the court has adopted procedures for submitting Final Status Reports and released the most recent formats of the Standing Pretrial Order and the Standing Pretrial Notice. The Standing Pretrial Notice now requires that pretrial memoranda in small tax cases be received by the Tax Court at least seven calendar days before the first date of the trial session.

Attached to this Notice are the most recent formats for the Standing Pretrial Order and the Standing Pretrial Notice. We caution attorneys to carefully read the Standing Pretrial Order or Standing Pretrial Notice for each case to which they are assigned since individual judges may vary provisions from the general formats.

Questions about Standing Pretrial Orders or Standing Pretrial Notices should be directed to the Office of Associate Chief Counsel (Procedure and Administration), Branch 6 at (202) 622-7950 or Branch 7 at (202) 622-4570. Any deviation in a Standing Pretrial Order or Notice that varies from the current format should immediately be brought to the attention of Peter Reilly at (202) 622-7071.

/s/  
Deborah A. Butler  
Associate Chief Counsel  
(Procedure & Administration)

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Distribute to: ☒ All Personnel  
☒ Electronic Reading Room

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Filename: CC-2009-019 File copy in: CC:FM:PF

UNITED STATES TAX COURT  
WASHINGTON, DC  
[www.ustaxcourt.gov](http://www.ustaxcourt.gov)

STANDING PRETRIAL ORDER

To the parties: The attached Notice Setting Case for Trial provides that this case is calendared for trial at the trial session commencing on Monday,

The parties shall begin discussions as soon as practicable for purposes of settlement and/or preparation of a stipulation of facts. Valuation cases and reasonable compensation cases are generally susceptible of settlement, and the Court expects the parties to negotiate in good faith with this objective in mind. All minor issues should be settled so that the Court can focus on the issue(s) needing a Court decision.

If difficulties are encountered in communicating with another party or in complying with this order, the affected party should promptly advise the Court in writing, with a copy to each other party, or in a conference call among the parties and the trial Judge.

Continuances will be granted only in exceptional circumstances. See Rule 133, Tax Court Rules of Practice and Procedure. (The Court's Rules are available at [www.ustaxcourt.gov](http://www.ustaxcourt.gov).) Even joint motions for continuance will not routinely be granted.

The Court may impose appropriate sanctions, including dismissal, for any unexcused failure to comply with this Order. See Rule 131(b). Such failure may also be considered in relation to sanctions against and disciplinary proceedings involving counsel. See Rule 202(a).

To facilitate an orderly and efficient disposition of all cases on the trial calendar, it is hereby

ORDERED that all facts shall be stipulated to the maximum extent possible. All documentary and written evidence shall be marked and stipulated in accordance with Rule 91(b), unless the evidence is to be used solely to impeach the credibility of a witness. Objections may be preserved in the stipulation. If a complete stipulation of facts is not ready for submission at the commencement of the trial or at such other time ordered by the Court, and if the Court determines that this is the result of either party's failure to fully cooperate in the preparation thereof, the Court may order sanctions against the uncooperative party. Any documents or materials which a party expects to utilize in the event of trial (except solely for impeachment), but which are not stipulated, shall be identified in writing and exchanged by the parties at least 14 days before the first day of the trial session. The Court may refuse to receive in evidence any document or material not so stipulated or exchanged, unless otherwise agreed by

the parties or allowed by the Court for good cause shown. It is further

ORDERED that unless a basis of settlement has been reached, each party shall prepare a pretrial memorandum substantially in the form attached hereto, which shall indicate the current status of the case. Each party shall submit the Pretrial Memorandum directly to the undersigned and to the opposing party not less than 14 days before the first day of the trial session. It is further

ORDERED that, if the status of the case changes from that reported in a party's pretrial memorandum, the party shall submit to the undersigned and to the opposing party a Final Status Report substantially in the form attached hereto. It is further

ORDERED that witnesses shall be identified in the Pretrial Memorandum with a brief summary of the anticipated testimony of such witnesses. Witnesses who are not identified will not be permitted to testify at the trial without leave of the Court upon sufficient showing of cause. Unless otherwise permitted by the Court upon timely request, expert witnesses shall prepare a written report which shall be submitted directly to the undersigned and served upon each other party at least 30 days before the first day of the trial session. An expert witness's testimony may be excluded for failure to comply with this Order and the provisions of Rule 143(f). It is further

ORDERED that where a basis of settlement has been reached, a stipulated decision shall be submitted to the Court prior to or at the call of the calendar on the first day of the trial session. Additional time for submitting a stipulated decision will be granted only where it is clear that settlement has been approved by all parties, and the parties shall be prepared to state for the record the basis of settlement and the reasons for delay. The Court will specify the date by which the stipulated decision and any related settlement documents will be due. It is further

ORDERED that all parties shall be prepared for trial at any time during the term of the trial session unless a specific date has been previously set by the Court. It is further

ORDERED that every pleading, motion, letter or other document (with the exception of posttrial briefs, see Rule 151(c)) submitted to the Court by any party subsequent to the date of the Notice Setting Case For Trial shall be served by the party upon every other party or counsel for a party and shall contain a certificate of service as specified in Rule 21(b).

Judge

Dated: Washington, D.C.

Trial Calendar:

Date:

PRETRIAL MEMORANDUM FOR (Petitioner/Respondent)

Please type or print legibly

(This form may be expanded as necessary)

NAME OF CASE:

DOCKET NO. (S):

ATTORNEYS:

Petitioner: \_\_\_\_\_

Respondent: \_\_\_\_\_

Tel. No.: \_\_\_\_\_

Tel. No.: \_\_\_\_\_

AMOUNTS IN DISPUTE:

Year(s)/Period(s)      Deficiencies/Liabilities      Additions/Penalties

STATUS OF CASE:

Probable Settlement \_\_\_\_\_ Probable Trial \_\_\_\_\_ Definite Trial \_\_\_\_\_

CURRENT ESTIMATE OF TRIAL TIME:

\_\_\_\_\_

MOTIONS YOU EXPECT TO MAKE: (Title and brief description)

STATUS OF STIPULATION OF FACTS: Completed \_\_\_\_\_ In Process \_\_\_\_\_

ISSUES:

(Continued on back)

WITNESS(ES) YOU EXPECT TO CALL: (Name and brief summary of expected testimony)

SUMMARY OF FACTS: (Attach separate pages, if necessary, to inform Court of facts in chronological narrative form)

BRIEF SYNOPSIS OF LEGAL AUTHORITIES: (Attach separate pages, if necessary, to discuss fully your legal position)

EVIDENTIARY PROBLEMS:

DATE: \_\_\_\_\_

\_\_\_\_\_  
Petitioner/Respondent

Return to:

United States Tax Court  
Room  
400 Second Street, NW  
Washington, D.C. 20217  
(202) 521-

**UNITED STATES TAX COURT**  
WASHINGTON, DC 20217  
[www.ustaxcourt.gov](http://www.ustaxcourt.gov)

**STANDING PRETRIAL NOTICE**

To the parties: The attached Notice Setting Case For Trial provides that this case is calendared for trial at the trial session commencing on

If this is your first time appearing before the Tax Court please pay special attention to paragraph number 8 of this notice.

1. **Status of the Court.** The U.S. Tax Court hears disputes between taxpayers and the IRS. The Court is not a part of the IRS.
2. **Settlement Conferences.** Before the calendar call date, the parties should meet and try to settle the case. "Settle" means that all matters in dispute in the case have been resolved. Settlement documents should be signed by all parties or counsel and submitted to the Court before or at the call of the calendar.
3. **Readiness for Trial.** If the parties have not submitted to the Court signed settlement documents, the case will be called at the calendar call on the date and time set forth in the notice setting case for trial. The Court may excuse a party from appearance at the calendar call if the Court concludes that a basis of settlement has been reached. Unless otherwise excused, the parties must appear at the calendar call and be ready for trial at any time during the session, which may last as little as 1 day or as long as 2 weeks.
  - a. Cases will not be continued other than under exceptional circumstances.
  - b. Failure to appear may result in a dismissal of the case and a decision against the non-appearing party.
  - c. Within 2 weeks before the start of the trial session, the parties may jointly contact the judge's chambers to request a time and date certain for the trial. If practicable, the Court will attempt to accommodate the request.
4. **Stipulation Agreement.** The parties should agree in writing (stipulate) about all relevant facts and documents that are not in dispute. Failure or refusal by a party to stipulate may result in a finding against that party.
5. **Pretrial Memorandum.** If a party concludes that a trial is probable, then the party should submit to the Court and to the opposing party a pretrial memorandum substantially in the form attached hereto. The pretrial memorandum should be sent to the Court so as to be received at least seven calendar days before the first date of the trial session.
6. **Final Status Report.** If there has been a last-minute settlement or change in the status of a case, a party should submit a Final Status Report to the Court. The parties may access an electronic version of the Final Status Report on the Court's internet web site at [www.ustaxcourt.gov](http://www.ustaxcourt.gov)

(Continued on back...)

by clicking on the "Final Status Report" tab from the menu of options. A Final Status Report may be submitted to the Court electronically or by fax sent to 202-521-3378 and the report must be received by the Court no later than 3 p.m. eastern time on the last business day (normally Friday) before the calendar call. The Final Status Report must be promptly submitted to the opposing party by mail, e-mail, or fax, and a copy of the report must be given to the opposing party at the calendar call if the opposing party is present.

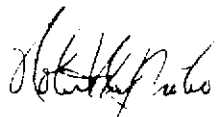
7. **The Trial.** The parties are responsible for presenting all evidence to the Court at the time of trial. Evidence consists of the stipulation, sworn testimony at trial, and any documentary evidence accepted by the Court as exhibits at the trial. Accordingly, the parties should bring to court all documents on which they intend to rely.

The only opportunity for the parties to present their evidence to the Court is at the trial. Information or documents previously presented to the IRS are not before this Court. Therefore, at trial, the parties must present all documents and the testimony of all witnesses that they want the Court to consider in deciding the case, even though this evidence may have previously been presented to the IRS.

8. **Petitioner (Taxpayer) Getting Ready For Court Check List**

Before you come to Court:

- ☐ Think about what facts you want to tell the Judge.
- ☐ Organize your facts and argument so you can tell your side of the story.
- ☐ Meet and talk to people at the IRS who call or write to you after you get this notice.
- ☐ Organize any documents you have to support your case.
- ☐ Provide copies of documents to the IRS.
- ☐ Agree in writing to facts and documents that are not in dispute.
- ☐ If the IRS will not agree with your documents (stipulation), bring three copies of the documents to Court.
- ☐ Consider whether you need any witnesses to support your case.
- ☐ If you need a witness, make sure the witness is available and present for trial at the trial session. (See 3.c. above).
- ☐ Come to Court early so you will be ready when your case is called at the calendar call.
- ☐ Learn more about the Tax Court at [www.ustaxcourt.gov](http://www.ustaxcourt.gov)



Clerk of the Court

Dated:

Trial Calendar:

Date:

PRETRIAL MEMORANDUM FOR (Petitioner/Respondent)

Please type or print legibly  
(This form may be expanded as necessary)

NAME OF CASE:

DOCKET NO. (S):

ATTORNEYS:

Petitioner: \_\_\_\_\_

Respondent: \_\_\_\_\_

Tel. No.: \_\_\_\_\_

Tel. No.: \_\_\_\_\_

AMOUNTS IN DISPUTE:

<u>Year(s)/Period(s)</u>	<u>Deficiencies/Liabilities</u>	<u>Additions/Penalties</u>
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EVIDENTIARY PROBLEMS:

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\_\_\_\_\_  
Petitioner/Respondent

Return to:

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400 Second Street, N.W.  
Washington, D.C. 20217  
(202) 521-